

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 433

Introduced by Lathrop, 12.

Read first time January 20, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 24-312 and
2 24-517, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to interchange of judges and court
4 jurisdiction; to repeal the original sections; and to
5 declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-312, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 24-312 (1) The district judges may interchange and hold
4 each other's court. Whenever it shall appear by affidavit, to the
5 satisfaction of any district judge in the state, that the judge
6 of any other district is unable to act, on account of sickness,
7 interest, or absence from the district or from any other cause,
8 the judge to whom application may be made shall have power to make
9 any order or do any act relative to any suit, judicial matter, or
10 proceeding or to any special matter arising within the district
11 where such vacancy or disability exists which the judge of such
12 district court could make or do. The order or act shall have the
13 same effect as if made or done by the judge of such district.

14 (2) A district judge may appoint by order a consenting
15 county judge residing in the district to act as a district judge in
16 specific instances on any matter over which the district court has
17 determined that it has jurisdiction over the parties and subject
18 matter, except appeals from the county court. The appointed county
19 judge shall have power to make any order or do any act relative to
20 any suit, judicial matter, or proceeding or to any special matter
21 which the district judge of such district could make or do if (a)
22 all parties have consented to the appointment or (b) no party has
23 objected to the appointment within ten days after service of the
24 order of appointment upon him or her, except that in any domestic
25 relations matter as defined in section 25-2740 or Class IV felony

1 case, consent shall not be required and a party shall not have
2 the right to object to the appointment of a county judge to act
3 as a district judge. Any order or act by the county judge after
4 appointment shall have the same effect as if made or done by the
5 district judge of such district. A copy of the order of appointment
6 shall be filed in each action in which a county judge acts as a
7 district judge.

8 (3) In an effort to more efficiently administer the
9 caseload, the presiding judges of the district court and county
10 court in each judicial district, other than district court judicial
11 district number four and county court judicial district number
12 four, may assign between the courts cases involving domestic
13 relations matters as defined in section 25-2740 and Class IV felony
14 cases. The presiding judges shall annually review the caseload of
15 the two benches and determine whether to reassign cases involving
16 domestic relations matters as defined in section 25-2740 and
17 Class IV felony cases. The consent of the parties shall not be
18 required for such cases, and such cases shall remain filed in
19 the court where they were originally filed. The annual plan on
20 the case assignments shall be sent to the Supreme Court, and if
21 the presiding judges cannot agree on a plan, the matter shall be
22 forwarded to the Supreme Court for resolution.

23 Sec. 2. Section 24-517, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 24-517 Each county court shall have the following

1 jurisdiction:

2 (1) Exclusive original jurisdiction of all matters
3 relating to decedents' estates, including the probate of wills and
4 the construction thereof, except as provided in subsection (c) of
5 section 30-2464 and section 30-2486;

6 (2) Exclusive original jurisdiction in all matters
7 relating to the guardianship of a person, except if a separate
8 juvenile court already has jurisdiction over a child in need of
9 a guardian, concurrent original jurisdiction with the separate
10 juvenile court in such guardianship;

11 (3) Exclusive original jurisdiction of all matters
12 relating to conservatorship of any person, including (a) original
13 jurisdiction to consent to and authorize a voluntary selection,
14 partition, and setoff of a ward's interest in real estate owned
15 in common with others and to exercise any right of the ward in
16 connection therewith which the ward could exercise if competent and
17 (b) original jurisdiction to license the sale of such real estate
18 for cash or on such terms of credit as shall seem best calculated
19 to produce the highest price subject only to the requirements set
20 forth in section 30-3201;

21 (4) Concurrent jurisdiction with the district court to
22 involuntarily partition a ward's interest in real estate owned in
23 common with others;

24 (5) Concurrent original jurisdiction with the district
25 court in all civil actions of any type when the amount in

1 controversy is forty-five thousand dollars or less through June 30,
2 2005, and as set by the Supreme Court pursuant to subdivision (b)
3 of this subdivision on and after July 1, 2005.

4 (a) When the pleadings or discovery proceedings in a
5 civil action indicate that the amount in controversy is greater
6 than the jurisdictional amount of subdivision (5) of this section,
7 the county court shall, upon the request of any party, certify
8 the proceedings to the district court as provided in section
9 25-2706. An award of the county court which is greater than the
10 jurisdictional amount of subdivision (5) of this section is not
11 void or unenforceable because it is greater than such amount,
12 however, if an award of the county court is greater than the
13 jurisdictional amount, the county court shall tax as additional
14 costs the difference between the filing fee in district court and
15 the filing fee in county court.

16 (b) The Supreme Court shall adjust the jurisdictional
17 amount for the county court every fifth year commencing July
18 1, 2005. The adjusted jurisdictional amount shall be equal to
19 the then current jurisdictional amount adjusted by the average
20 percentage change in the unadjusted Consumer Price Index for
21 All Urban Consumers published by the Federal Bureau of Labor
22 Statistics for the five-year period preceding the adjustment
23 date. The jurisdictional amount shall be rounded to the nearest
24 one-thousand-dollar amount;

25 (6) Concurrent original jurisdiction with the district

1 court in any criminal matter classified as a misdemeanor or for
2 any infraction. The district court shall have ~~exclusive~~ concurrent
3 original jurisdiction in any criminal matter classified as a
4 misdemeanor that arises from the same incident as a charged felony;

5 (7) Concurrent original jurisdiction with the district
6 court in domestic relations matters as defined in section 25-2740
7 and with the district court and separate juvenile court in
8 paternity or custody determinations as provided in section 25-2740;

9 (8) Concurrent original jurisdiction with the district
10 court in matters arising under the Nebraska Uniform Trust Code;

11 (9) Exclusive original jurisdiction in any action based
12 on violation of a city or village ordinance;

13 (10) Exclusive original jurisdiction in juvenile matters
14 in counties which have not established separate juvenile courts;

15 (11) Exclusive original jurisdiction in matters of
16 adoption, except if a separate juvenile court already has
17 jurisdiction over the child to be adopted, concurrent original
18 jurisdiction with the separate juvenile court; and

19 (12) All other jurisdiction heretofore provided and not
20 specifically repealed by Laws 1972, Legislative Bill 1032, and such
21 other jurisdiction as hereafter provided by law.

22 Sec. 3. Original sections 24-312 and 24-517, Reissue
23 Revised Statutes of Nebraska, are repealed.

24 Sec. 4. Since an emergency exists, this act takes effect
25 when passed and approved according to law.